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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,755	03/23/2004	Larry B. Gray	1062/C97	2422
2101	7590	04/21/2006	EXAMINER	
BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			WEBB, TIFFANY LOUISE	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,755

Applicant(s)

GRAY ET AL.

Examiner

Tiffany L. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/25/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "91," "93," "94," and "95" have all been used to designate a pivot point.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second roller follower, a second pivot rest, a second rest pivot angle, a base pivot angle, a support pivot axis, a support pivot angle, a first motor, a second motor, a second rest pivot axis, and a surface-contacting module must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
- On page 4, line 23, reference character 80 is referred to as a "footrest" and prior to this had been only referenced as a "rest."
 - On page 5, line 9, reference character "φ" is used and the examiner believes that "θ" is the proper character, as seen in the drawings. The incorrect character is also used on lines 12 and 19; on page 6, lines 7 and 10;
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 5, 6, 8, 9, and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 5, 6, 8, 9, and 13, a "second rest" is claimed. From the specification and the drawings it is unclear to where the second rest is located. The specification refers to the second embodiment having "dual rests," but the rests are not

shown, neither are they further described enough for the examiner to understand the scope of the second rest and second rest pivot axis. The examiner suggests clarifying what is meant by the second rest, as it is not shown in the drawings, nor sufficiently described in the specification.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7-9 recite the limitation "the first rest angle" in line 2 of each claim. There is insufficient antecedent basis for this limitation in the claim. The examiner suggests changing to "first rest pivot angle."

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-2, 10-11, and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Morrell et al. (US 6,311,794). Regarding claim 1, Morrell et al. discloses having a transporter (10) for carrying a payload over a surface (34), the transporter including: a surface-contacting module (18) for traversing the surface; a power base (36), the power base pivotally coupled to the surface-contacting module about a base pivot axis (20 or

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38), the base pivot axis parallel to the surface; a support for supporting the payload (28), the support pivotally coupled to the power base about a support pivot axis; and a mechanical linkage (8 and 16) for maintaining the support pivot angle constant as the power base pivots. Regarding claim 2, Morrell et al. discloses having a first rest (32) for partial support of the payload, the first rest pivotally coupled to the support about a first rest pivot, having a first rest pivot angle defined by an axis parallel to the surface and the vertical plane. Regarding claim 10, Morrell et al. discloses having the rest having a stop such that the first rest pivot angle is at least a specified angle (See Figure 1). Regarding claim 11, Morrell et al. discloses the first rest being a footrest for supporting a foot of a user (see Figure 1). Regarding claim 14, Morrell et al. discloses having a caster (30) coupled to the base being brought into engagement with the surface during operation of the transporter.

10. Claims 1-3, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamen et al. (US 5,975,225). Regarding claim 1, Kamen et al. discloses having a transporter (Figure 1) for carrying a payload over a surface, the transporter including: a surface-containing module (11) for traversing the surface; a power base (col. 5, line 9), the power base pivotally coupled to the surface-containing module about a base pivot axis (11c), the base pivot axis parallel to the surface; a support (16) for supporting the payload, the support pivotally coupled to the power base about a support pivot axis (15); and a mechanical linkage for maintaining the support pivot angle constant as the power base pivots (12 and 14). Regarding claim 2, Kamen et al. discloses having a first rest (163) for partial support of the payload, the first rest pivotally coupled to the support

about a first rest pivot (see marked up copy, P), having a first rest pivot angle defined by an axis parallel to the surface and the vertical plane. Regarding claim 3, Kamen et al. discloses having a first linkage coupling the first rest to the power base in such a manner as to vary the first rest pivot angle was a function of the base pivot angle (Figures 11-15). Regarding claim 11, Kamen et al. discloses the first rest being a footrest for supporting a foot of a user (see Figure 1).

Allowable Subject Matter

11. Claims 4, 7, 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are all payload transporters: Jayne (US 4,618,155), Johnson et al. (US 5,577,567), Kamen et al. (US 6,405,816), Cox (US 6,484,829), and Heinzmann (US 6,837,327).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tiffany L Webb
Examiner
Art Unit 3616

tlw

 4/12/06
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

ATTACHMENT TO OFFICE ACTION

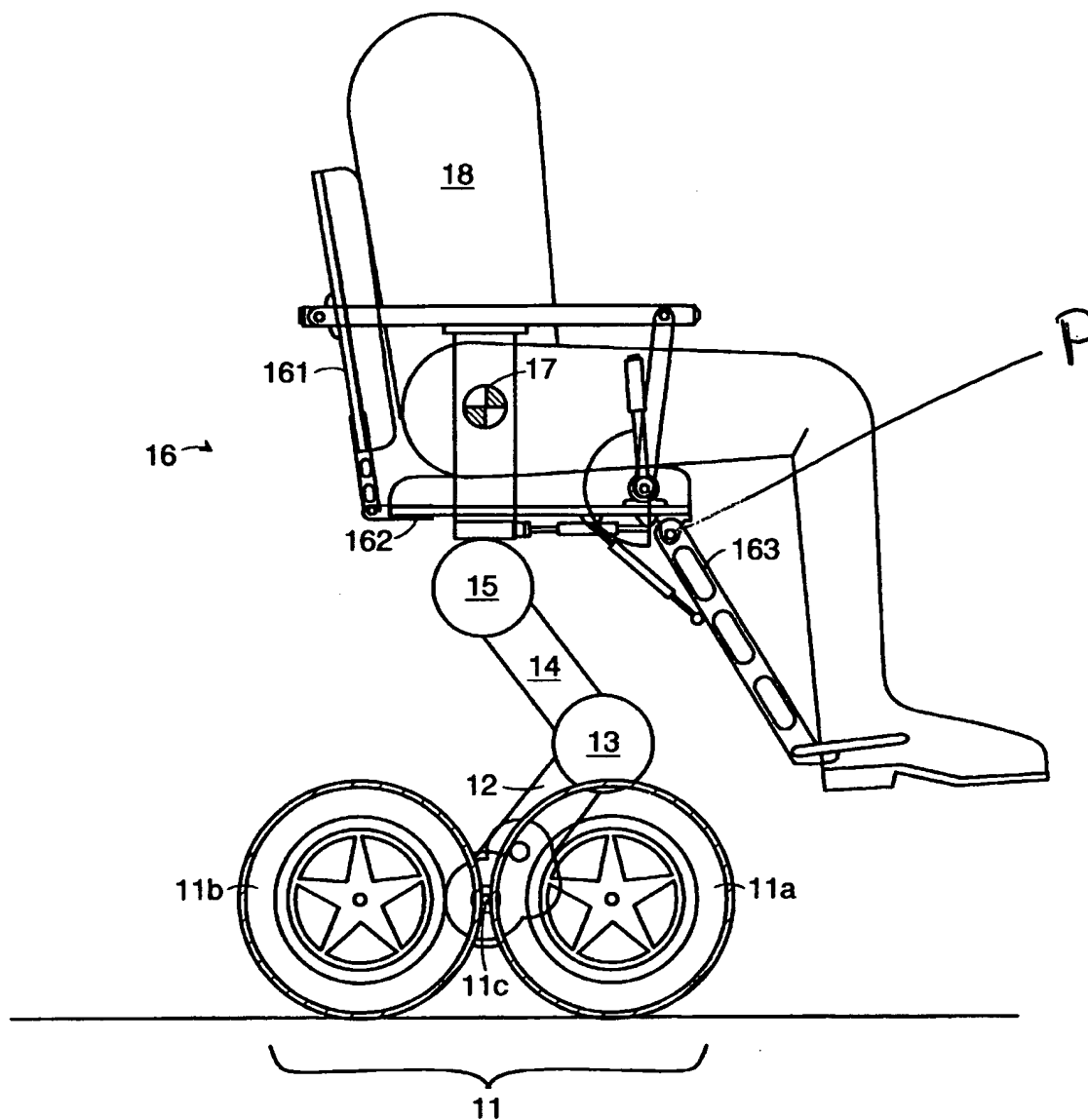


FIG. 1